



Reprinted  
February 2, 2000

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## HOUSE BILL No. 1146

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DIGEST OF HB 1146 (Updated February 1, 2000 10:09 PM - DI 51)

**Citations Affected:** IC 27-1; IC 34-13; noncode.

**Synopsis:** Tort claims against governmental entities. Increases the combined aggregate liability of all governmental entities and public employees under the law concerning tort claims against governmental entities and public employees: (1) from \$300,000 to \$500,000 for injury to or death of one person in any one occurrence; and (2) from \$5,000,000 to \$8,000,000 for injury to or death of all persons in that occurrence. Increases the individual claim limits (but not the aggregate claim limits) for policies provided to participating political subdivisions by the political subdivision risk management commission from \$300,000 to \$500,000. Increases the threshold amount over which the political subdivision catastrophic liability fund will make partial payments for claims against a participating political subdivision from \$5,000,000 to \$8,000,000.

**Effective:** January 1, 2001.

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### Avery, Young D, Ulmer, Tincher

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January 10, 2000, read first time and referred to Committee on Courts and Criminal Code.  
January 24, 2000, reported — Do Pass; referred to Committee on Ways and Means,  
pursuant to House Rule 127.  
January 27, 2000, amended, reported — Do Pass.  
February 1, 2000, read second time, amended, ordered engrossed.

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HB 1146—LS 6578/DI 69+



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Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

## HOUSE BILL No. 1146

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 27-1-29-14 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 14. (a) In order to  
3 be eligible for payment under this chapter, a liability of a political  
4 subdivision must arise out of a claim based upon an act or omission  
5 that takes place while the political subdivision is a member of the fund.  
6 (b) The maximum amount payable from the fund for any liability,  
7 whether or not it is covered under IC 34-13-3 (or IC 34-4-16.5 before  
8 its repeal), is:  
9 (1) ~~three five~~ hundred thousand dollars ~~(\$300,000)~~ **(\$500,000)** for  
10 injury, death, or damage suffered by any one (1) person as a result  
11 of the act or omission from which the liability arises; and  
12 (2) one million dollars (\$1,000,000) for all injury, death, or  
13 damage suffered by all persons as a result of the act or omission  
14 from which the liability arises.  
15 (c) No amount may be paid from the fund in respect of punitive  
16 damages paid by or assessed against a member of the fund.  
17 (d) No amount may be paid from the fund in the case of a liability

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1 based upon bodily injury or property damage arising out of the  
 2 discharge, dispersal, release, or escape of smoke, vapors, soot, fumes,  
 3 acids, alkalis, toxic chemicals, liquids, gases, waste materials, or other  
 4 irritants, contaminants, or pollutants into or upon land, the atmosphere,  
 5 or any watercourse or body of water unless the discharge, dispersal,  
 6 release, or escape:

7 (1) is caused by an act or omission of a political subdivision that  
 8 is a member of the fund; and

9 (2) occurs as a result of:

10 (A) a household hazardous waste; or

11 (B) a conditionally exempt small quantity generator (as  
 12 described in 40 CFR 261.5(a);

13 collection, disposal, or recycling project conducted by or  
 14 controlled by the political subdivision.

15 (e) The commissioner may pay a liability of a member of the fund  
 16 in a series of annual payments. The amount of any annual payment  
 17 under this subsection must be one hundred thousand dollars (\$100,000)  
 18 or more, except for the final payment in a series of payments.

19 (f) The commission may negotiate a structured settlement of any  
 20 claim.

21 (g) As used in this section, "household hazardous waste" means  
 22 solid waste generated by households that consists of or contains a  
 23 material that is:

24 (1) ignitable, as described in 40 CFR 261.21;

25 (2) corrosive, as described in 40 CFR 261.22;

26 (3) reactive, as described in 40 CFR 261.23; or

27 (4) toxic, as described in 40 CFR 261.24.

28 SECTION 2. IC 27-1-29.1-13 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 13. The amount  
 30 that is to be paid by the commission toward the satisfaction of a  
 31 liability qualifying for partial payment under this chapter is determined  
 32 in STEP FOUR of the following formula:

33 STEP ONE: If the total amount of the liability exceeds ~~five eight~~  
 34 million dollars ~~(\$5,000,000)~~; **(\$8,000,000)**, subtract ~~five eight~~  
 35 million dollars ~~(\$5,000,000)~~ **(\$8,000,000)** from the total amount  
 36 of the liability.

37 STEP TWO: Add the remainder under STEP ONE to the  
 38 minimum total amount figure that applies to the liability under  
 39 section 12 of this chapter.

40 STEP THREE: Add to the sum determined under STEP TWO the  
 41 total amount expended by the commission under section 16 of this  
 42 chapter in defending the member of the fund against claims



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1 giving rise to the liability.  
 2 STEP FOUR: Subtract the sum determined under STEP THREE  
 3 from the total amount of the liability.  
 4 SECTION 3. IC 34-13-3-4 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4. The combined  
 6 aggregate liability of all governmental entities and of all public  
 7 employees, acting within the scope of their employment and not  
 8 excluded from liability under section 3 of this chapter, does not exceed  
 9 ~~three five~~ hundred thousand dollars (~~\$300,000~~) **(\$500,000)** for injury  
 10 to or death of one (1) person in any one (1) occurrence and does not  
 11 exceed ~~five eight~~ million dollars (~~\$5,000,000~~) **(\$8,000,000)** for injury  
 12 to or death of all persons in that occurrence. A governmental entity is  
 13 not liable for punitive damages.  
 14 SECTION 4. [EFFECTIVE JANUARY 1, 2001] **This act applies**  
 15 **only to a cause of action that accrues after December 31, 2000.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1146, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1146, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, delete "one million two" and insert "**five**".

Page 1, line 6, delete "fifty".

Page 1, line 7, delete "(\$1,250,000)" and insert "**(\$500,000)**".

Page 1, line 8, delete "twenty" and insert "**eight**".

Page 1, line 9, delete "(\$20,000,000)" and insert "**(\$8,000,000)**".

and when so amended that said bill do pass.

(Reference is to HB 1146 as printed January 25, 2000.)

BAUER, Chair

Committee Vote: yeas 22, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1146 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-29-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 14. (a) In order to be eligible for payment under this chapter, a liability of a political subdivision must arise out of a claim based upon an act or omission that takes place while the political subdivision is a member of the fund.

(b) The maximum amount payable from the fund for any liability, whether or not it is covered under IC 34-13-3 (or IC 34-4-16.5 before its repeal), is:

- (1) ~~three~~ **five** hundred thousand dollars (~~\$300,000~~) (**\$500,000**) for injury, death, or damage suffered by any one (1) person as a result of the act or omission from which the liability arises; and
- (2) one million dollars (\$1,000,000) for all injury, death, or damage suffered by all persons as a result of the act or omission from which the liability arises.

(c) No amount may be paid from the fund in respect of punitive damages paid by or assessed against a member of the fund.

(d) No amount may be paid from the fund in the case of a liability based upon bodily injury or property damage arising out of the discharge, dispersal, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, waste materials, or other irritants, contaminants, or pollutants into or upon land, the atmosphere, or any watercourse or body of water unless the discharge, dispersal, release, or escape:

- (1) is caused by an act or omission of a political subdivision that is a member of the fund; and
- (2) occurs as a result of:
  - (A) a household hazardous waste; or
  - (B) a conditionally exempt small quantity generator (as described in 40 CFR 261.5(a); collection, disposal, or recycling project conducted by or controlled by the political subdivision.

(e) The commissioner may pay a liability of a member of the fund in a series of annual payments. The amount of any annual payment under this subsection must be one hundred thousand dollars (\$100,000) or more, except for the final payment in a series of payments.

(f) The commission may negotiate a structured settlement of any claim.

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(g) As used in this section, "household hazardous waste" means solid waste generated by households that consists of or contains a material that is:

- (1) ignitable, as described in 40 CFR 261.21;
- (2) corrosive, as described in 40 CFR 261.22;
- (3) reactive, as described in 40 CFR 261.23; or
- (4) toxic, as described in 40 CFR 261.24.

SECTION 2. IC 27-1-29.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 13. The amount that is to be paid by the commission toward the satisfaction of a liability qualifying for partial payment under this chapter is determined in STEP FOUR of the following formula:

STEP ONE: If the total amount of the liability exceeds ~~five eight~~ million dollars (~~\$5,000,000~~), **(\$8,000,000)**, subtract ~~five eight~~ million dollars (~~\$5,000,000~~) **(\$8,000,000)** from the total amount of the liability.

STEP TWO: Add the remainder under STEP ONE to the minimum total amount figure that applies to the liability under section 12 of this chapter.

STEP THREE: Add to the sum determined under STEP TWO the total amount expended by the commission under section 16 of this chapter in defending the member of the fund against claims giving rise to the liability.

STEP FOUR: Subtract the sum determined under STEP THREE from the total amount of the liability."

Renumber all SECTIONS consecutively.

(Reference is to HB 1146 as printed January 28, 2000.)

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